

July 9, 2004
DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: Alice McMillan

Date of Filing: June 10, 2004

Case Number: TFA-0062

On June 10, 2004, Alice McMillan filed an Appeal from a determination the DOE's Richland Operations Office (Richland) issued on April 12, 2004. The determination responded to a request for information filed under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the Department of Energy (DOE) in 10 C.F.R. Part 1004.

I. Background

On March 26, 2004, Ms. McMillan wrote Richland requesting records pertaining to her deceased brother, Carl Lester Vaughn, who apparently worked at the Hanford Nuclear Reservation during World War II. On April 12, 2004, Richland issued a determination letter (the determination letter) in response to Ms. McMillan's request. The determination letter states that Richland had performed "a thorough search by name and Social Security number for employment records related to your brother and were unable to locate any." Determination Letter. In the present appeal, Ms. McMillan challenges the adequacy of Richland's search.

II. Analysis

We have stated on numerous occasions that a FOIA request deserves a thorough and conscientious search for responsive documents, and we have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Butler, Vines and Babb, P.L.L.C.*, 25 DOE ¶ 80,152 (1995). The FOIA, however, requires that a search be reasonable, not exhaustive. "[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials." *Miller v. Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord Weisberg v. Department of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984). In cases such as these, "[t]he issue is *not* whether any further documents might conceivably exist but rather whether the government's search for responsive documents was adequate." *Perry v. Block*, 684 F.2d 121, 128 (D.C. Cir. 1982) (emphasis in original).

Thus, upon receiving the present Appeal, we contacted Richland to inquire as to the search it conducted in response to Ms. McMillan's request. Richland informed us that it had searched the DOE's database of individuals who had been employed at the Hanford Reservation using both her

brother's name and his social security number. Richland also informed us that, based on its experiences, its records do not contain information regarding every person who worked at Hanford, particularly those employed there before the administration of Hanford passed into civilian hands. Records of individuals employed at Hanford when it was administered by the Manhattan Engineering District may be held by the Department of Defense or the actual employers of those workers or may simply no longer exist.

Based on the above descriptions, it appears clear to us that Richland performed a diligent search of locations under its jurisdiction where responsive documents were most likely to exist. Thus, we conclude that the search was reasonably calculated to uncover the records Ms. McMillan sought.

Accordingly, the present Appeal will be denied.

It Is Therefore Ordered That:

- (1) The Freedom of Information Act Appeal filed by Alice McMillan, Case Number TFA-0062, is hereby denied.
- (2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

George B. Breznay
Director
Office of Hearings and Appeals

Date: July 9, 2004